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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,060	09/10/2003	Joseph E. Kaminkow	0112300-1423	7281

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BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER

RADA, ALEX P

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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03/07/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/660,060	Applicant(s) KAMINKOW ET AL.	
	Examiner ALEX P. RADA	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/26/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the amendment filed November 26, 2007 wherein applicant amends claims 1-3, 9-13, 18-21, 25, 31, 33, 41 and claims 1-44 are pending in this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falciglia, SR (US Pub. No. 2003/0181234) in view of Thomas et al. (US Pub. No. 2003/0073480).

Regarding claims 1 and 19, Falciglia, SR (Falciglia) discloses a gaming device comprising: *at least one input device (abstract); at least one display device (abstract); and at least one processor programmed to operate with the at least one display device (abstract); display a group of selections, each selection being associated with a symbol from a range of a plurality of symbols (figure 1a-1g and paragraphs [0018-0022]); display a plurality of random symbol generators, each random symbol generator being associated with a different plurality of selections from the group of selections, the random symbol generators each generating one of the symbols of the associated selection group upon activation (figure 1a-1g and paragraphs [0018-0022]); cause a number of generations by each of the random symbol generators, wherein the number is at least one; provide a first award provided to the player based on the symbols associated with the selections*

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which are generated by the associated *random symbol generators* within the number of generations (paragraph [0022]; where the number of points is considered to be the first award).

Regarding claims 2 and 20, Falciglia discloses wherein the first award is provided contingent upon a threshold percentage of the symbols associated with the selections being generated by the associated *random symbol generators* within the amount of generations (paragraphs [0008-0010]).

Regarding claims 3 and 21, Falciglia discloses wherein the first award is provided contingent upon each of the symbols associated with the solutions being generated by the associated *random symbol generators* within the amount of generations (paragraphs [0008-0010]).

Regarding claims 9 and 25, Falciglia discloses a plurality of groups of selections, each selection associated with a symbol from the range, wherein each *random symbol generators* is associated with one of the selections of each of the groups, and wherein the first award is based on how many symbols associated with the selections of each of the groups are generated by the associated *random symbol generators* within the amount of generations (figure 1a-1g and paragraphs [0018-0022]).

Regarding claim 10, Falciglia discloses wherein the first award is provided contingent upon a threshold percentage of the symbols associated with the selections of one of the groups being generated by the associated random symbol generators within the amount of generations (figure 1a-1g and paragraphs [0018-0022]).

Regarding claim 11, Falciglia discloses wherein the first award is provided contingent upon each of the symbols associated with the selections of one of the groups being generated by the associated random symbol generators within the amount of generations (figure 1a-1g and paragraphs [0018-0022]).

Regarding claim 12, Falciglia discloses wherein the groups are displayed as rows of masked selections and the random symbol generators are each displayed adjacent to a column of selections from each of the groups (figures 1a-1g).

Regarding claim 13, Falciglia discloses wherein the random symbol generators each generate and display one of the symbols from the range (paragraph [0019]).

Regarding claims 14-15 and 27-28, Falciglia disclose the game is played via a data network and the data network includes an Internet (paragraph [0009]).

Regarding claims 16-18 and 29-32, Falciglia discloses the symbols are numbers (figures 1a-1g) and the symbols are masked initially (figures 1a-1g), additional generations available to be generated by the random symbol generators (figures 1a-1g and paragraph [0018]) and the symbols must occur in a row of symbols or a column of symbols (figures 1a-1g).

Regarding claim 26, Falciglia discloses the first display device includes a video monitor coupled operably with a touch screen (paragraph [0030]).

Regarding claim 33, Falciglia discloses a gaming device having a game payable upon a wager, comprising: (a) displaying a first group of *selections, each of the first groups of selections being associated with a first* symbol from the set of a plurality of symbols (figures 1-3 and paragraphs [0018-0022]); (c) generating randomly a second group of the symbols from the set on a plurality of independent generation devices, each generating one of the symbols (figures 1-3 and paragraphs [0018-0022]); (d) providing the player a second award based on the symbols from the first group which are randomly generated in the second group (paragraphs [0018-0022]).

Regarding claim 34, Falciglia discloses wherein awarding the player based on the symbols from the first group generated in the second group includes awarding the player if a threshold percentage of the masked symbols are generated in the second group (paragraphs [0018-0022]).

Regarding claim 35, Falciglia discloses dividing the first group of symbols into a plurality of sub-groups and awarding the player if each of the symbols of one of the sub-groups is generated (paragraphs [0018-0022]).

Regarding claim 36, Falciglia discloses step (c) is repeated at least one time before steps (d) and (e) (paragraphs [0018-0022]).

Regarding claims 39 and 40, Falciglia discloses steps (a) and (e) are provided via data network or a computer storage device and the data network includes an Internet (paragraph [0009]).

Regarding claim 41, Falciglia discloses a gaming device having a game operable upon a wager comprising: (a) enabling play of an item matching game as a first bonus game of a base game (figures 1-3 and paragraphs [0018-0022]), wherein an objective is to randomly match as many of the items as possible (figures 1-3 and paragraphs [0018-0022]); (c) enabling the player to play a number of second bonus game based on the matching sequence, wherein the matching sequences includes a plurality of independent generation devices each generating one of the items (figures 1-3 and paragraphs [0018-0022]); and (d) providing an award to the player based on each of the outcomes of the first bonus games (figures 1-3 and paragraphs [0018-0022]).

Regarding claim 42, Falciglia discloses structuring the item matching game to include a plurality of reels, each associated with a dedicated group of the items, wherein the reels can generate and match designated items of the group (figures 1-3 and paragraphs [0018-0022]).

Falciglia in regards to **claims 1, 19, 33 and 41** is silent to *enable a player to pick one of the selections, the picked selection being associated with a first symbol from the range of the plurality of symbols, the first symbol being hidden prior to the player picking the picked selection; reveal the first symbol, if the picked selection is generated within the number of generations; and a second award to the player based on how many of the symbols associated with selections picked are generated by the associated random symbol generators*

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within the amount of generations; regarding **claims 4, 22, 37 and 44**, wherein the second award is a combination of values provided in connection with each of the symbols associated with selections picked by the player that are also generated by the device; regarding **claims 5 and 23**, wherein the second award includes an outcome from at least one bonus game played after one of the symbols associated with selections picked by the player is also generated by the device; regarding **claims 6, 38 and 43**, wherein the bonus game includes a mechanical device that generates the outcome; regarding **claims 7 and 24**, wherein the mechanical device is selected from the group consisting of: a spinning reel, a spinning wheel, a translating indicator, a rotating indicator and any combination thereof; regarding **claim 8**, wherein the second award is generated via a mechanical display device.

Thomas teaches (claims 1, 4 and 22) a spin keno type amusement device wherein a player selects a number of spots to determine an outcome. Each of the spots selected by the user has a range of a plurality of symbols being hidden prior to the player picking selected spots on the display. If there are matches between the spots selected by the user and the generated spots by the amusement device an award is provided based on the number of spots matched (summary). By modifying Falciglia's plurality of random symbol generators, wherein each random symbol generator being associated with a range of a plurality of symbols and to include a player picking a predetermined number of spots on a display device, one of ordinary skill in the art would provide a user with predictable results by providing a player to obtain as many matches as possible to increase the size of a payout (paragraph [0012]).

Regarding claims 5 and 23, Thomas teaches wherein the second award includes an outcome from at least one bonus game played after one of the symbols associated with selections picked by the player is also generated by the device (paragraphs [0005] and [0046]).

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Regarding claims 6, 7-8 and 24, Thomas teaches the bonus game includes a device that simulates a mechanical device that generates the outcome (paragraph [0005], [0046] and summary; wherein the Thomas is capable of playing on a simulated mechanical machine or on a physical mechanical machine). At the time the invention was made, it would have been an obvious design choice to a person of ordinary skill in the art to provide different mechanical device from the group consisting of a spinning reel, a spinning wheel, a translating indicator, a rotating indicator and any combination and a mechanical display device because Applicant has not disclosed that different types of mechanical device used provides an advantage or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the simulated reels on a display device of Thomas because they provide the same functionality of randomly determining an outcome.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Falciglia to include at least one pick of the selections; and an award provided to the player based on how many of the symbols associated with selections picked are generated by the associated random symbol generators within the amount of generations as taught by Thomas by providing a player to obtain as many matches as possible to increase the size of a payout.

Response to Arguments

3. Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

Robert E. Pezzuto
Examiner
Art Unit 3714

/A. P. R./
Examiner, Art Unit 3714